

# Proposed Rules

Federal Register

Vol. 65, No. 226

Wednesday, November 22, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 704

#### Corporate Credit Unions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** NCUA requests public comment on revisions to the rule governing corporate credit unions (corporates). As part of its regulatory review process and in conjunction with a prior advance notice of proposed rulemaking, NCUA has identified provisions for further clarification or revision. Comments from interested parties on these issues will assist NCUA in its regulatory review process.

**DATES:** Comments must be received on or before February 20, 2001.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You may fax comments to (703) 518-6319. Please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Schafer, Director, Office of Corporate Credit Unions, at the above address or telephone (703) 518-6640; or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

On July 28, 1999, NCUA issued an advance notice of proposed rulemaking

that requested comment on several issues the Board identified as areas of the corporate rule it was interested in clarifying or revising. 64 FR 40787 (July 28, 1999). In addition, the Board welcomed comment on other sections of part 704 not addressed in the advanced notice. *Id.* As a result of those comments, the Board has identified additional areas of part 704 it is interested in revising or clarifying. Before issuing a proposed rule, the Board believes it would be helpful to receive additional comment and guidance on those issues not identified in the July 28, 1999, advance notice. The Board again welcomes comment on other sections of part 704 not addressed in its advance notice. Upon receipt of comments to this advance notice, the Board plans to issue a proposed rule that incorporates the comments to both this advance notice and the July 28, 1999, advance notice.

##### B. Specific Areas for Review

As explained more fully below, the Board is seeking comment on the following issues: capital; credit concentration; asset liability management; aggregate investment by federal credit unions in paid-in capital and membership capital in corporate credit unions; and corporate credit union service organizations.

##### Capital

Based on previous comments, the Board is considering eliminating the distinction between capital and the components of capital that are available for determining credit concentration limits. The following questions on capital relate either directly or indirectly to this proposed change.

1. Would a Change of Our Capital Definitions So That They Are Analogous to Those Used by Other Financial Regulators Provide Benefits to Corporate Credit Unions and Their Members?

Currently, capital includes reserves and undivided earnings (RUDE), paid-in

capital (PIC) and membership capital (MC), but for purposes of establishing credit concentration limits, MC is not included in capital. 12 CFR 704.2 and 704.6. Thus, corporate credit unions have two capital measurements: one that includes all capital; and one that includes only specific components of capital for credit concentration limits. NCUA is considering changes that would result in one measure of capital. These changes, for the purpose of credit concentration limits, would permit a portion or possibly all PIC and MC (under certain conditions) to be included. Overall, NCUA believes these changes would result in corporates having more capital for purposes of credit concentration limits.

Generally, a corporate's capital includes PIC with a stated maturity date (term PIC) that is reduced monthly from five years to three years of maturity and all MC. Comparable components of a bank's total risk-based capital are scaled down by 20 percent per year within 5 years of maturity. The result of this difference is that banks may have a more restrictive measure of total risk-based capital.

The Board is considering amending the definition of reserve ratio to include only PIC that would qualify as capital under Generally Accepted Accounting Principles (GAAP), that is, non-cumulative dividend, perpetual maturity PIC. Existing PIC, for example, term PIC, could be "grandfathered" into the reserve ratio computation, subject to a reduction for term PIC of 20 percent per year for each year within 5 years of maturity. Thus, term PIC would be fully amortized when there was a remaining maturity of less than 1 year, rather than the 3-year remaining maturity provision of the current rule.

Similarly, the Board is considering revising the definition of capital ratio, so that, MC and PIC not qualifying as capital under GAAP would be subject to a reduction of 20 percent per year as illustrated in the second chart below.

ILLUSTRATIVE CHANGES TO CAPITAL DEFINITIONS

Current provision	Current definition	Illustrative change to definition	Analogous provision of depository institution regulators
RUDE .....	Retained earnings .....	None .....	Undivided profits and capital reserves.
Reserve ratio .....	Sum of RUDE and PIC divided by DANA.	Sum of RUDE and PIC qualifying as GAAP capital divided by DANA.	Core (Tier 1) capital ratio.
Capital .....	Sum of RUDE, PIC, and MC .....	Sum of RUDE, eligible PIC, and eligible MC.	Total capital (risk based).

Abbreviations used in table: DANA = moving daily average net assets; GAAP = generally accepted accounting principles; MC = membership capital; PIC = paid in capital; and RUDE = reserves and undivided earnings.

ILLUSTRATIVE REDUCTION OF MC AND TERM PIC

Shorter of remaining maturity or any minimum withdrawal notice period	Reduction in MC or PIC (percent)	Percentage of MC or PIC eligible as capital
5 or more years .....	0	100
4 to less than 5 years .....	20	80
3 to less than 4 years .....	40	60
2 to less than 3 years .....	60	40
1 to less than 2 years .....	80	20
Less than 1 year .....	100	0

NCUA's intent is to retain the current capital ratio requirement of at least 4 percent. Although the proposed change to the definition of capital ratio would result in a reduction in eligible capital, it would increase capital used for credit and concentration limits. For example, only 60 percent of MC with a 3-year notice would be eligible for inclusion in the capital ratio. This change would not affect the level of MC counted as capital if a corporate credit union replaced existing MC with newly issued MC having a minimum notice period and a term of 5 years. In addition, NCUA's intent is to remove the current restriction that eligible PIC not exceed RUDE. 12 CFR 704.2.

2. Should the Rule Require That the Measure for Adjusted Balance MC Accounts Be Based on a 12-Month Average, Rather Than a Measure Based on a Particular Point in Time? Further, Is There a Need for Adjusted Balance MC Accounts?

Currently, the rule provides that an adjusted balance MC account may be adjusted in relation to a measure and gives as an example one percent of a member credit union's assets. 12 CFR 704.2. Depending on the measure used, there is the potential for dramatic increases or decreases in the adjusted balance MC account. To avoid this result, the Board is considering requiring that the adjustment be based on a percentage of the measure's average balance for the preceding 12 months.

If adjusted balance MC accounts are included in capital for credit concentration and interest rate risk limits, the Board is concerned that these accounts may lack the appropriate degree of permanency. The current definition of MC does not restrict the measure used to adjust the MC balance. It gives one percent of a member credit union's assets as an example. Rather than using assets, a corporate may use the dollar amount that a natural person member credit union has invested in the corporate as the basis for calculating adjusted balance MC accounts. In that case, a member could receive all of its MC account simply by withdrawing its investments.

3. Should There Be a Minimum RUDE Ratio (Defined as RUDE Divided by DANA) of 2 Percent for All Corporate Credit Unions?

The Board believes a minimum RUDE ratio requirement would ensure stability of corporate credit union capital. Further, it would ensure a minimum component of the corporate's capital is not also reflected in the net worth of member credit unions.

4. Should There Be a Credit-Risk Weighted Capital Requirement?

NCUA believes corporates have capital in relation to risk that is comparable to the (risk-based) total capital of other financial institutions, but, because of current definitions and lack of a required measurement, this

comparability may not be evident. 12 CFR part 3, Appendix A.

NCUA is considering a credit-risk weighted capital requirement for corporate credit unions. While corporate credit unions must comply with stringent interest rate risk regulations, corporate credit unions are not currently subject to credit-risk weighted capital requirements. Some corporates have expressed an interest in reinstating this requirement because it would provide a risk-based capital ratio that is comparable to that used by other financial institutions.

Credit Concentration

1. Should Credit Concentration Limits Be Set as a Percentage of Capital?

Currently, credit concentration limits are based on percentages of RUDE and PIC, rather than a broader measure such as capital. As part of its changes to the capital requirements, the Board is considering changing this requirement, so that credit concentration limits are based on a percentage of capital. This change would enable the Board to use a uniform measure of capital for all purposes.

2. Should Credit Concentration Limits Vary Depending Upon the Credit Rating of an Investment, for Example, the Lower the Credit Rating, the More Restrictive the Credit Concentration Limit?

In conjunction with the previously discussed changes to capital, NCUA is considering lowering the minimum

credit rating requirements for investments to permit corporates to be more competitive with other depository institutions that are permitted to invest in the full range of investment grade securities. NCUA recognizes the

increased quality of corporates' credit analysis skills and improved capital levels. The effect of lowering the minimum credit rating requirements would be to allow additional permissible investments. As illustrated

in the table below, the requirements are linked to the corporate's level of expanded authority.

*Example Minimum Credit Rating Requirements*

**MINIMUM CREDIT RATINGS FOR LONG-TERM AND SHORT-TERM INVESTMENTS**

[Stated in terms of Standard & Poor's Ratings or Equivalents]

	Base and base plus	Part I expanded authority	Part II expanded authority
Long-term Investments .....	No lower than AA- .....	No lower than A- .....	No lower than BBB (flat).
Short-term Investments .....	No lower than A-1 .....	No lower than A-2, with a minimum long-term debt rating of the obligor of A-.	No lower than A-2, with a minimum long-term debt rating of the obligor of BBB (flat).

With the contemplated inclusion of eligible MC as part of the capital base for credit concentration limits and the permissibility of lower rated

investments, the current credit concentration limits are too high. NCUA is considering reducing the existing percentages and reorganizing the limits

into the categories of long-term and short-term investments, as illustrated in the tables below.

*Example Credit Concentration Limits*

**LONG-TERM INVESTMENT CREDIT CONCENTRATION LIMITS**

[As percentage of capital]

**Limits by Obligor**

Long-term investments:				
Credit Rating .....	AAA- and higher ....	AA- and higher .....	A- and higher .....	BBB (flat) and higher.
Concentration Limits .....	25% .....	20% .....	15% .....	10%.

**SHORT-TERM INVESTMENT CREDIT CONCENTRATION LIMITS**

[As percentage of capital]

**Limits by Obligor**

Short-term investments:			
Credit Rating .....	A-1 .....	A-2, with a minimum long-term rating of the obligor of A-.	A-2, with a minimum long-term rating of the obligor of BBB (flat).
Concentration Limits .....	25% .....	15% .....	10%.
Repurchase Transaction Concentration Limits .....	50% .....	30% .....	20%.

3. NCUA Seeks Comment on Establishing a Limit for the Aggregate Credit Exposure to a Single Obligor That Has Issued Debt Obligations Across Multiple Rating Categories. The Proposed Limits Are Listed in the Two Tables Above

4. Should Corporate Credit Unions Be Exempt From Credit Concentration Limits When Investing in Other Corporate Credit Unions?

Exemptions to the current credit concentration limits only apply to investments in a wholesale corporate credit union. NCUA believes extension of these exemptions to all corporate credit unions will facilitate more efficient movement of liquidity throughout the system.

5. Should There Be a De Minimis Exemption From Credit Concentration Limits and, if so, What Amount?

NCUA is considering a de minimis exemption from credit concentration limits (such as \$5 million) to permit smaller corporate credit unions to execute institutional block size transactions, such as Fed Funds.

*Asset Liability Management*

1. NCUA Seeks Comment on Changing the Definition of Net Economic Value (NEV)

NEV means the fair value of assets minus the fair value of liabilities. 12 CFR 704.2. Currently, the definition of NEV treats MC as a liability for purposes of the NEV calculation. NCUA intends to change the definition of NEV to exclude eligible MC and eligible PIC

(including grandfathered PIC) from liabilities. The proposed definitions of eligible MC and eligible PIC are reflected in the chart entitled Illustrative Reduction of MC and Term PIC. In turn, noneligible MC and noneligible PIC are treated as liabilities for purposes of the NEV calculation. This change would tend to increase the reported base case NEV ratio.

2. NCUA Seeks Comment on Increasing the Minimum NEV Ratio to 2 Percent

In conjunction with the proposed change to the definition of NEV, NCUA proposes increasing the minimum NEV ratio to 2 percent. Section 704.8(d)(1)(ii) requires a NEV ratio of 1 percent. 12 CFR 704.8(d)(1)(ii). By increasing the base case NEV through inclusion of eligible MCs, larger dollar amounts could be exposed to interest rate risk.

Under the current rule, for example, if a corporate credit union has base-plus expanded authority and a base case NEV ratio of 1.40 percent, the rule permits the NEV ratio to decline 25 percent. This would be a decline of 35 basis points. Under the proposal, with the

inclusion of eligible MC, the corporate credit union would have a base case NEV ratio of 2.40 percent and the permissible decline would increase to 60 basis points. This decline is large in relation to the low level of base case NEV. By increasing the minimum NEV

ratio from 1 percent to 2 percent, the decline would be limited to no more than 40 basis points.

*Example of Including Eligible MCs and Increasing Minimum NEV Ratio*

IMPACT OF CHANGE TO MINIMUM NEV RATIO ON HYPOTHETICAL CORPORATE CREDIT UNION

	Current rule	Including eligible MCs in NEV	Including eligible MCs in NEV and increasing minimum NEV ratio to 2%
Base case NEV ratio .....	1.4% .....	2.4% .....	2.4%.
Permitted decline (25 percent of base case) .....	35 basis points .....	60 basis points .....	Limited to 40 basis points by minimum NEV ratio.
Resulting NEV ratio (not less than minimum NEV ratio) ...	1.05% .....	1.8% .....	2%.
Minimum NEV ratio .....	1% .....	1% .....	2%.

3. Should the Minimum NEV Ratio That Triggers Monthly Interest Rate Sensitivity Analysis Testing Be Increased?

Section 704.8(d)(1)(i) currently increases the requirement for testing from quarterly to monthly when the base case NEV ratio falls below 2 percent. The Board is considering raising it to 3 percent because, when the measured minimum NEV ratio is low, it is reasonable to monitor interest rate sensitivity more frequently. The contemplated changes to the NEV definition may increase the level of both the base case NEV and the minimum NEV.

*Aggregate Investment by Federal Credit Unions in PIC and MC in Corporate Credit Unions*

1. NCUA seeks comment on whether the Board should amend § 703.100(c) to increase the limit on the aggregate purchase of member PIC and MC in one corporate credit union from one percent to two percent. In conjunction with this change, the Board is considering adding a new provision that imposes a four percent limit on the aggregate purchase of member PIC and MC in all corporate credit unions.

*Corporate Credit Union Service Organizations (CUSOs)*

1. NCUA seeks comment on the definition of a corporate CUSO. Currently, the rule defines a corporate CUSO as an entity that is "at least partly owned by a corporate credit union" but does not specify a minimum ownership requirement. 12 CFR 704.11(a)(1). The Board believes that the definition of a corporate CUSO should be amended to ensure that there is a significant ownership interest by corporate credit unions. The Board is considering amending the definition to require that

a CUSO be considered a corporate CUSO only if any corporate credit union owns a minimum 25 percent interest or the aggregate interest by all corporate credit unions exceeds 50 percent.

By the National Credit Union Administration Board on November 16, 2000.

**Becky Baker,**  
*Secretary of the Board.*

[FR Doc. 00-29837 Filed 11-21-00; 8:45 am]

**BILLING CODE 7535-01-U**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 41**

[Airspace Docket No. 00-AEA-12]

**Amendment to Class E Airspace; Culpepper, VA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to establish Class E airspace at Culpepper, VA. A helicopter Point in Space approach, has been developed for Culpepper Memorial Hospital, Culpepper, VA. Controlled airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach. This action proposes to establish Class E airspace to include the Point in Space approach to Culpepper Memorial Hospital Heliport. The area would be depicted on aeronautical charts for pilot reference.

**DATES:** Comments must be received on or before December 22, 2000.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA-520, Docket No. 00-AEA-12, F.A.A. Eastern Region, 1

Aviation Plaza, Jamaica, NY 11434-4809.

The official docket may be examined in the Office of the Regional Counsel, AEA-7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434-4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA-520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434-4809.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA-520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434-4809; telephone: (718) 553-4521.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 00-AEA-12". The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before